

Before the
Federal Communications Commission
445 12th St., S.W.
Washington, DC 20554

In the matter of

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Docket No. MB 06-92

To: Office of the Secretary
Attn: Chief, Media Bureau

Comments on the
PETITION FOR DECLARATORY RULING

MEDIA BUREAU ACTION

Comment on petition for declaratory ruling regarding RFD
Communications, Inc. and its eligibility to be carried as a DBS Public
Interest Noncommercial programmer

Intermountain Communications, LLC

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May 18, 2006

Comments

Turner Media Group offers the following comments concerning the petition for Declaratory Ruling regarding RFD Communications, Inc. (“RFD-TV”) eligibility to be carried as a DBS Public Interest Noncommercial programmer.

Turner Media Group (“TMG”) is a for-profit entity that owns and operated eight television networks. TMG delivers these channels to television distribution companies such as DISH Network, DirecTV, Comcast, Time Warner and other broadcast television companies.

TMG is writing in support of the Farm Journal, Inc. petition of declaratory ruling by recommending the removal of the non-profit status of RFD-TV. RFD-TV is operating as a for-profit, commercial entity and should be treated accordingly by the FCC. TMG utilizes its eight owned and operated channels to deliver targeted programming with transaction rich content. The Turner Ad Group, a wholly owned subsidiary of TMG is a media representation firm founded with the single minded focus to maximize the revenue potential of media inventory across multiple media platforms that include television, Interactive television, VOD and broadband. We work closely with media partners to develop sound, sustainable, long term revenue models

Superior Livestock Auction programming is carried on RFD-TV, which is a channel that occupies a portion of the DBS set aside capacity as required by the 1992 Cable Act. TMG has customers that compete with Superior Livestock Auction and utilize commercial programming channel capacity on DISH Network and pay commercial programming rates. It appears that Superior Livestock Auction is brokering RFD-TV channel capacity at commercial rates and selling commercial advertisements and is therefore ineligible for carriage on channels that DBS providers reserve for qualified nonprofit organizations or noncommercial educational entities.

In addition to cattle auctions, TMG has been informed by several clients that they appreciate working with us, but can get a lower rate for content distribution from RFD-TV. Superior Livestock Auction and RFD-TV appear to be selling commercial advertising for Nuflor ® a cattle antibiotic and for John Deere, a farm equipment manufacturer. The Nuflor advertisement does not qualify as an underwriting sponsor because of the ‘call to action’ element of their advertisement.

This commercial programming, which occupies a significant portion of their broadcast schedule was not the intent of the “set-aside” capacity of the DBS systems. There is no way that a reasonable person could view this programming as non-commercial or educational.

RFD-TV has abused its non-profit status by carrying for-profit auctions provided exclusively by Superior Livestock Auction. TMG is asking the FCC to level the playing field for its clients and urges support of this action.

If the Commission has any further questions please contact Douglas E. McGary at (303) 839-5303.